REMARKS

Claims 1-25 are pending. Claims 1-11 have been amended. In view of the foregoing amendments, and the remarks that follow, reconsideration is respectfully requested.

Allowable Subject Matter

Noted with appreciation is the indication in the Office Action that Claims 4-9, 15-17 and 22 recite allowable subject matter, subject to resolution of rejections under 35 U.S.C. §101 and §112. In light of amendments made to Claims 4-9, and for other reasons discussed in more detail later, it is believed that Claims 4-9, 15-17 and 22 are all in full compliance with §101 and §112.

Objection to Incomplete Office Action

Applicants respectfully object to the Office Action because it is not complete. More specifically, the provisions of MPEP §707.07(f) instruct examiners that:

> Where the applicant traverses any rejection, the examiner should,
> if he or she repeats the rejection, take note of the applicant's
> argument and answer the substance of it.

In the present application, the Examiner issued a prior Office Action on June 26, 2008 rejecting independent Claims 1, 12, and 20 under 35 U.S.C. §103(a) based on a proposed combination of Harsham U.S. Patent No. 6,041,347, Nguyen U.S. Patent Application Publication No. 2003/0172145, and Pham U.S. Patent No. 7,143,288. On September 26, 2008, Applicants replied to the Office Action of June 26, 2008, in particular by filing a Response that traversed the rejections. In that Response, Applicants made a number of different specific arguments addressing different aspects of the rejections in the June 26 Office Action.

The Examiner has now issued a further Office Action with substantially identical rejections. In this new Office Action, the Examiner addresses some of the arguments presented in the September 26 Response. However, many of Applicants' prior arguments are not addressed by the Examiner. The following list identifies some of Applicants' prior arguments that the Examiner has completely failed to address:

1. Applicant's arguments against the rejection of Claims 20-25 under 35 U.S.C. 101 for lacking a specific well-established utility. Claim 20 recites "enforcing policies and permissions for controlling access to various network resources". This has utility as required by §101, and Claims 21-25 inherit this utility by virtue of their dependency.

2. Applicant's argument regarding the Examiner's failure to provide the explanation required under MPEP §706.03(a). This relates to a rejection of Claims 20-25 under 35 U.S.C. § 101 for lacking a specific well-established utility. MPEP §706.03(a) provides form paragraph 7.05.04 for making the assertion that a claim lacks utility under 35 U.S.C. §101. In that form paragraph, specifically at the spot marked by the bracketed three ([3]), the examiner is directed to "insert the explanation as to why the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility" (See Examiner Note 2(c)). The Examiner has not provided that explanation here, and thus has not met the burden for a proper rejection under 35 U.S.C. §101.

3. Applicant's argument against the rejection of Claims 20-25 as lacking support for the phrase "computer readable medium". The Examiner asserts that the disclosure does not support the phrase "computer readable medium". By way of example and not limitation, paragraph [0033] of the specification says that: "The computer system may also make use of volatile memory such as RAM, for example, and non-volatile memory such as a hard disk drive or a flash memory device, for example". These enumerated computer system elements (RAM, a hard disk drive and a flash memory device) are each a computer readable medium, and provide support for the claimed "computer readable medium".

4. Applicant's argument against the rejection of Claims 1-25 under 35 U.S.C § 103 based on non-analogous prior art. The Examiner asserted that Claims 1, 12, and 20 are obvious over a combination of Harsham, Nguyen, and Pham. However, MPEP §2141.01(a) states that: "To rely on a reference under 35 U.S.C. 103, it

must be analogous prior art". (Capitalization and punctuation normalized). MPEP §2141.01(a) goes on to indicate that, as one important aspect of this, the Examiner must "consider similarities and differences in structure and function". (Capitalization and punctuation normalized). Harsham, Nguyen, and Pham are not combinable under §103 because they have differences in structure and function that show that they are in non-analogous art areas.

5. Applicant's argument regarding the claim language, "configured to contain independent rule blocks". Claim 1 of the present application recites an "access control list" that is "configured to contain independent rule blocks having ordered access rules". The Examiner doesn't attempt to identify where the prior art teaches independent rule blocks, or how an access control list might "contain" or "hold" the independent rule blocks.

6. Applicant's argument regarding the claim language "if the list is empty, creating a new independent rule block and inserting the new access rule therein". The Examiner asserted that these limitations are taught by Nguyen at page 15, paragraph [0434]. However, there is nothing in that text that teaches "creating a new independent rule block," "inserting," or conditioning the insertion on the emptiness of a "list."

7. Applicant's argument regarding the claim language "a set of mapped independent rule blocks". The Examiner has not shown how a cited section of Harsham teaches "rule blocks" that are "mapped," "independent" or in a "set". The Examiner does not apply any other reference to teach "rule blocks" that are "mapped," "independent" or in a "set". The Examiner thus does not show that each claim element was known in the prior art.

8. Applicant's argument regarding the claim language "merging the blocks in the set to form a new independent rule block". Although the word "merging" appears in the Pham reference, it appears in text that describes merging "server and client

communications functions," and not merging "rule blocks" as recited in Claim 1. Further, Pham completely fails to mention "inserting the new access rule" into a merged block as recited by Claim 1.

9. <u>Applicant's argument regarding the claim language "a rule base," as recited in Claim 12.</u> The Examiner does not show a "rule base" in the prior art, and it is therefore impossible for the Examiner to claim equivalence between Claim 12 and any combination of Harsham, Nguyen, and Pham.

10. <u>Applicant's argument regarding the claim language "a rule insertion engine," as recited in Claim 12.</u> The Exmainer does not show a "rule base" in the prior art, and it is therefore impossible for the Examiner to claim equivalence between Claim 12 and any combination of Harsham, Nguyen, and Pham.

11. <u>Applicant's argument regarding the claim language "a subset of the set comprising those blocks for which a position for the new access rule can be determined," as recited in Claim 12.</u> The Examiner does not show a "rule base" in the prior art, and it is therefore impossible for the Examiner to claim equivalence between Claim 12 and any combination of Harsham, Nguyen, and Pham.

Thus, the present Office Action repeats rejections from the last Office Action, but fails to "take note of the applicant's argument and answer the substance of it" as required by MPEP §707.07(f). Accordingly, it is respectfully submitted that the present Office Action is not complete, because it fails to comply with PTO requirements. It is therefore respectfully submitted that the present Office Action must be withdrawn, and replaced with a new and complete Office Action that does comply with MPEP 707.07(f).

Claims 1-11 - Compliance With 35 U.S.C. § 101

The Office Action objects to Claims 1-11 on the ground that they are not directed to statutory subject matter under 35 U.S.C. §101. In particular, the Office Action asserts that

independent Claim 1 "deals with simple mathematical abstract ideas and can be achieved with a **paper and pencil**" (emphasis in original). In the Office Action, the Examiner suggests changing the preambles of Claims 1-11 to refer to a "computer implemented" method. The foregoing amendments implement this proposed change to Claims 1-11. It is respectfully submitted that Claims 1-11 are now in compliance with §101, and notice to that effect is respectfully requested.

Objection to the Specification

The Office Action objects to the specification on the ground that the specification does not include a "summary of the invention" section. Applicants note that this is not the first time this objection has been raised. The Examiner previously presented this objection, and then withdrew it after being reminded of the language of the MPEP. In the present Office Action, the Examiner asserts that, regardless of the language of the MPEP, a summary section is required. However, this is not correct, and this ground of objection is again respectfully traversed.

There is no requirement for a "summary" section in the patent statute, the rules, or the MPEP. The applicable statutory section (35 U.S.C. §112, first paragraph) requires only that the specification include a written description that is enabling and that discloses Applicants' best mode of practicing the invention. No mention is made in §112 of any requirement for a summary. Although a summary is mentioned in MPEP §608.01(a) as part of a "preferred" style for the specification, it is clearly permissive rather than required. In fact, MPEP §608.01(a) even states that it is permissible for Applicants to optionally include a sub-heading such as "Brief Summary of the Invention", followed simply by the words "Not Applicable" and no other text. In other words, and contrary to the assertions in the Office Action, the MPEP explicitly states that no summary is required. For these reasons, it is respectfully submitted that the Examiner's objection to the absence of a summary is without basis, and must be withdrawn.

Claims 12-19 and 20-25 - Compliance With 35 U.S.C. § 101

a) Rejection of Claims 12-19 under 35 U.S.C. §101

Claims 12-19 stand rejected under 35 U.S.C. §101 on the ground that "none of the claims are directed to software per se". Applicants note that this is the second time this ground of rejection has been raised, and it is again traversed.

First, the Office Action is inconsistent with itself. The exact language of the Office Action rejects the claims because "none of" the claims are directed to "software per se". But if "none of" the claims are directed to software per se, then rejecting them for being software per se is logically inconsistent.

Second, the Examiner has raised a rejection *not supported in the law*. There is no legal standard in the MPEP or current case law for patentability based upon whether something is "software per se". It is arbitrary and directly contrary to the current standards of patentability to reject claims because they are "software per se". For this reason alone, the rejection of Claims 12-19 is not proper and must be withdrawn.

Third, Claim 12 explicitly recites a "computer system". A computer system is <u>hardware</u>. Rejecting a "computer system" for being "software per se" is a contradiction. The computer system recited in Claim 12 is a concrete, tangible, real-world piece of equipment. Further, the computer system of Claim 12 is programmed to implement certain recited functions, such as a "rule base", and a "rule enforcing engine" for "enforcing policies and permissions for controlling access to various network resources". In view of the fact that a computer system is programmed to implement the "rule base" and "rule enforcing engine" for "enforcing policies and permissions for controlling access to various network resources", these are <u>structural</u> limitations, and not software per se. It is thus respectfully submitted that Claim 12 is in compliance with §101.

Claims 13-19 depend from Claim 12 and are similarly compliant with 35 U.S.C. §101. Applicants respectfully request notice that Claims 12-19 are in compliance with §101.

b) Rejection of Claims 20-25 under 35 U.S.C. §101 for lack of a "specific and substantial asserted utility or a well established utility"

Claims 20-25 stand rejected under 35 U.S.C. §101 as not being supported "by either a specific and substantial asserted utility or a well established utility". The rejection is improper for two separate and independent reasons. (As discussed above, Applicants' prior arguments presenting these reasons have not yet been considered by the Examiner).

First, Claim 20 recites "enforcing policies and permissions for controlling access to various network resources". This has utility, and Claims 21-25 inherit this utility by virtue of their dependency from Claim 20. For this reason, it is respectfully submitted that the rejection is improper and should be withdrawn.

Second, MPEP §706.03(a) provides form paragraph 7.05.04 for making the assertion that a claim lacks utility under 35 U.S.C. §101. In that form paragraph, specifically at the spot marked by the bracketed three ([3]), examiners are instructed to "insert the explanation as to why the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility" (See Examiner Note 2(c)). The Examiner has not provided that explanation here, and thus has not met the burden for a proper rejection under 35 U.S.C. §101. For this reason, the rejection is improper and should be withdrawn. Notice to that effect is respectfully requested.

As to Claims 20-25, the Office Action also asserts that the phrase "computer readable medium" is not supported by the specification. This assertion is addressed below in the discussion of compliance with 35 U.S.C. §112.

Compliance With 35 USC § 112

Claims 20-25 are rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement. In particular, the Examiner asserts that the disclosure does not support the phrase "computer readable medium". This rejection is respectfully traversed.

First, in the originally-filed application papers, Claims 20-25 all expressly recited a "computer readable medium". The original claims are part of the specification. As such, the originally-filed claims themselves serve as support in the specification for the phrase "computer readable medium". For this reason alone, it is respectfully submitted that the rejection is improper and should be withdrawn.

In addition, the specification includes a number of examples of computer readable media. By way of example and not limitation, paragraph [0033] of the specification says that:

> The computer system may also make use of volatile memory such
> as RAM, for example, and non-volatile memory such as a hard
> disk drive or a flash memory device, for example.

These enumerated computer system elements (RAM, a hard disk drive and a flash memory device) are each a computer readable medium, and provide support for the claimed "computer readable medium". For this additional reason, the rejection is improper and should be withdrawn. Notice to that effect is respectfully requested

Non-Obviousness Under 35 USC § 103

Claims 1-3, 10-14, 18-21 and 23-25 are rejected under 35 U.S.C. 103(a) as being obvious over a proposed combination of Harsham U.S. Patent No. 6,041,347, Nguyen U.S. Patent Application Publication No. 2003/0172145, and Pham U.S. Patent No. 7,143,288. These rejections are respectfully traversed, for the following reasons.

a) The Office Action does not establish a prima facie case of obviousness because it does not show that each claim element was known in the prior art.

In *KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 82 USPQ2d 1385 (2007), the United States Supreme Court addressed the issue of obviousness, and explained that:

> A patent composed of several elements is not proved obvious
> merely by demonstrating that each element was, independently,
> known in the prior art. . . . it can be important to identify a reason
> that would have prompted a person of ordinary skill in the art to
> combine the elements as the new invention does.
>
> *KSR* at 1731, 82 USPQ2d at 1389.

In other words, after showing that all of the claim elements are known in the prior art, the examiner must do more. But here, as discussed below, the Examiner has not met even the initial burden of "demonstrating that each element was, independently, known in the prior art".

1) Claims 1, 12, and 20 of the present application all recite "ordered access rules". In the "response to arguments" section on page 11 of the Office Action, the Examiner asserts that "Applicant claimed ordered list has no significance and every list will have the order". The Office Action further asserts that paragraph [0053] of Nguyen teaches "while the elements of the process are shown in an order, the elements may be performed in other orders, and/or two or more of the elements may be performed simultaneously or overlapping". However, the Examiner's arguments fail for three reasons:

a.   First, it is clear error to merely assert that any claim limitations not found in the prior art have "no significance". MPEP

2143.03 requires that "All words in a claim must be considered in judging the patentability of that claim against the prior art."

b.   Second, the Examiner's citation to Nguyen is taken out of context. The Examiner omitted the introductory sentence in paragraph [0053] of Nguyen, which states that: "The following is an exemplary process for planning for LDAP according to one embodiment, and is not intended to be limiting". Saying that elements of a "process for planning" may be in any order has no significance relative to ordered access rules.

c.   Third, the indicated portion of Nguyen actually teaches the opposite of what Applicants claim. If something can be in "other orders" or "overlapping," then it is in fact underordered, rather than ordered. An "ordered access rule" as recited by the claim is "ordered," rather than "overlapping" or in any other order.

2)   Claim 1 of the present application recites a "list configured to contain independent rule blocks having ordered access rules". Claim 12 of the present application recites an "access control list configured to hold independent rule blocks having ordered access rules". Claim 20 of the present application recites an "access control list containing independent rule blocks having ordered access rules". The Examiner has not met the burden of showing how the prior art teaches that an access control list can "contain" or "hold" independent rule blocks. Because the Examiner has not applied any reference in the prior art to show how lists "contain" or "hold" rule blocks, the Examiner has not met the requirement of "demonstrating that each element was, independently, known in the prior art". For this reason, it is respectfully submitted that the rejections are improper and must be withdrawn.

3)   The Examiner has not met the burden of showing how the prior art teaches an independent rule block "having ordered access rules" as recited in Claims 1, 12, and 20. Because the Examiner has not applied any reference in the prior art to show how the independent rule blocks might have ordered access rules, the Examiner has not met the requirement of "demonstrating that each element was, independently, known in the prior

art". For this reason, it is respectfully submitted that the rejections are improper and must be withdrawn.

4)   Claim 1 of the present application recites "if the list is empty, creating a new independent rule block and inserting the new access rule therein". Claim 12 of the present application recites "if the access control list is empty, creating a new independent rule block and inserting the new access rule therein". Claim 20 of the present application recites "creating a new independent rule block and inserting the rule therein if the list is empty". The Examiner has not met the burden of showing how the prior art teaches empty list handling. Paragraph 11 of the Office Action asserts that these limitations are met by paragraph [0434] of Nguyen, where Nguyen states:

> Another consideration may be: is the design to include a router Access
> Control List (ACL) and packet filters? Many ISPs choose to omit
> firewalls and implement router ACL and packet filters instead.
> Considerations on whether to implement a firewall or router ACL and
> packet filters may include one or more of, but are not limited to, the
> following: routers are stateless and do not examine payload, and
> firewalls are necessary for stateful applications.

There is no reasonable interpretation of this quoted language that would amount to "creating a new independent rule block," "inserting," or conditioning the insertion on the emptiness of a "list". As the Office Action completely fails to show that the prior art discloses any of "creating a new independent rule block," "inserting" the block, or conditioning the insertion on the emptiness of a "list," the Examiner has not met the requirement of "demonstrating that each element was, independently, known in the prior art". For this reason, it is respectfully submitted that the rejections are improper and must be withdrawn.

5)   Claims 1, 12, and 20 of the present application all recite "a set of mapped independent rule blocks". The Examiner has not met the burden of showing how the prior art teaches "a set of mapped independent" rule blocks. Paragraph 11 of the Office Action asserts that this limitation is taught by Harsham, at col. 4, lines 25-28. The cited

text in Harsham states, "[a]ccordingly, in the present invention, various logical groups of individual machines and groups of machines in the computer network may be defined". However, since the Examiner has not shown how the prior art teaches "rule blocks" that are "mapped," "independent" or in a "set," the Examiner has not met the requirement of "demonstrating that each element was, independently, known in the prior art". For this reason, it is respectfully submitted that the rejections are improper and must be withdrawn.

6)   The Examiner has not met the burden of showing how the prior art teaches "a rule base" as recited by Claim 12. This phrase does not appear <u>anywhere</u> in the text of the Office Action. Because the Office Action does not show a "rule base" in the prior art, it is impossible for the Office Action to claim equivalence between Claim 12 and any combination of Harsham, Nguyen, and Pham. Accordingly, the Examiner has not met the requirement of "demonstrating that each element was, independently, known in the prior art". For this reason, it is respectfully submitted that the rejections are improper and must be withdrawn.

7)   The Examiner has not met the burden of showing how the prior art teaches "a rule insertion engine" as recited by Claim 12. This phrase does not appear <u>anywhere</u> in the text of the Office Action. Because the Office Action does not show "a rule insertion engine" in the prior art, it is impossible for the Office Action to claim equivalence between Claim 12 and any combination of Harsham, Nguyen, and Pham Accordingly, the Examiner has not met the requirement of "demonstrating that each element was, independently, known in the prior art". For this reason, it is respectfully submitted that the rejections are improper and must be withdrawn.

8)   The Examiner has not met the burden of showing how the prior art teaches "merging the blocks" as recited by claim 12. This phrase does not appear <u>anywhere</u> in the text of the Office Action. Because the Office Action does not show "merging the blocks" in the prior art, it is impossible for the Office Action to claim equivalence between Claim 12 and any combination of Harsham, Nguyen, and Pham

Accordingly, the Examiner has not met the requirement of "demonstrating that each element was, independently, known in the prior art". For this reason, it is respectfully submitted that the rejections are improper and must be withdrawn.

9)   The Examiner has not met the burden of showing how the prior art teaches "a subset of the set comprising those blocks for which a position for the new access rule can be determined" as recited by Claim 12. This phrase does not appear anywhere in the text of the Office Action. Because the Office Action does not show that the prior art discloses "a subset of the set comprising those blocks for which a position for the new access rule can be determined", it is impossible for the Office Action to claim equivalence between Claim 12 and any combination of Harsham, Nguyen, and Pham. Accordingly, the Examiner has not met the requirement of "demonstrating that each element was, independently, known in the prior art". For this reason, it is respectfully submitted that the rejections are improper and must be withdrawn.

10)   Claim 1 of the present application recites "merging the blocks in the set to form a new independent rule block and inserting the new access rule therein". Claim 12 of the present application recites "merging the blocks in a subset of the set comprising those blocks for which a position for the new access rule can be determined, and inserting the new access rule therein". Claim 20 of the present application recites "merging the blocks in the set to form a new independent rule block and inserting the rule therein". Paragraph 11 of the Office Action asserts that these limitations are taught by Pham in Fig. 2 and at col. 6, lines 31-33. The indicated portion of Pham states that:

> While using RPC-based messages functionally similar to the NFS
> protocol, the requirements for formal NFS compatibility are
> obviated and both server and client communications functions can
> be merged into a single, concisely defined secure virtual file
> system layer (SVFS).

Although the word "merging" appears in this text, the text is talking about merging "server and client communications functions," and *not* merging "rule blocks" as recited in the claims. Further, the Office Action and Pham completely fail to mention "inserting

the new access rule" into the merged block, as recited by the claims. Moreover, the recitation in Claim 12 of "merging the blocks in a subset of the set comprising those blocks for which a position for the new access rule can be determined" is completely ignored. Accordingly, the Examiner has not met the requirement of "demonstrating that each element was, independently, known in the prior art". For this reason, it is respectfully submitted that the rejections are improper and must be withdrawn.

b) The Office Action does not establish a prima facie case of obviousness because the references are not properly combinable.

MPEP §2145 X(D)(2) provides that: "It is improper to combine references where the references teach away from their combination". The Office Action suggests that Harsham, Nguyen, and Pham should be combined because Nguyen states that "all types of providers must position themselves for growth and agility to handle increasing numbers of subscribers, additional services, and workloads that are more challenging" (Nguyen at paragraph [0030], Office Action at paragraph 11). However, Nguyen and Harsham give directly opposite and inconsistent prescriptions as to how to solve problems of growth and scalability, and Pham is in a different area of the art altogether.

In the "response to arguments" section of the Office Action, the Examiner refers to "applicant's argument that there is no suggestion to combine the references". However, Applicants' argument was not saying that there is no suggestion to combine the references. Instead, what Applicants argued is that Harsham and Nguyen explicitly teach away from each other and are directly inconsistent. Therefore, the Examiner's reply fails to answer Applicant's argument.

In more detail, Nguyen states that early ISPs were not able to "scale their systems capacity" because they "combined the few required applications onto a single server" and pursued a "monolithic architecture design". Nguyen therefore proposes a distributed architecture. Nguyen at paragraph [0005], abstract. In contrast, Harsham states that "management of very large computer networks that are geographically dispersed is a difficult task" and prescribes a "centralized computer network management system". Harsham, col 1, ll. 39-41, 48-50.

Thus, Harsham expressly teaches directly away from Nguyen's distributed system, and Nguyen expressly teaches directly away from Harsham's centralized system. Because Harsham and Nguyen have diametrically opposed prescriptions for achieving the purported result of greater "growth and agility," the Examiner's suggestion to combine these references under §103 in order to achieve this particular result is improper under MPEP §2145 X(D)(2), and constitutes clear error. Adding Pham does not cure this deficiency, because Pham has not been applied (and does not apply) to the two prescriptions of scalability. For this reason, it is respectfully submitted that the references are not properly combinable, and so the rejection under §103 must be withdrawn.

c) The Office Action does not establish a prima facie case of obviousness because the references are not analogous art under to MPEP §2141.01(a).

MPEP §2141.01(a)(I) specifies that: "To rely on a reference under 35 U.S.C. 103, it must be analogous prior art". The Office Action asserts that Harsham, Nguyen, and Pham should be combined because Pham states in lines 22-25 of column 1 that "the number, variety, and complexity of computer systems and network components that must be cooperatively managed to establish at least a minimum uniform level of security within some defined domain has correspondingly increased". However, Pham is in a non-analogous area of the art from both Nguyen and Harsham, and so they cannot be combined.

More specifically, Pham's abstract explains that Pham is directed to a "security file system layer interposed between the platform operating system kernel and file system." As described by Pham, the security file system layer is at the very lowest layer of the operating system, directly integrated with the kernel on a single machine. In contrast, the abstract and paragraph [0005] of Nguyen explain that Nguyen is directed to a multi-machine distributed ISP architecture, and Harsham's abstract explains that Harsham is directed to a "centralized computer network management system that simultaneously configures and monitors computers in a computer network."

MPEP §2141.01(a)(II) states that "differences in structure and function" show that different references are nonanalogous. In this case, the differences in structure and function could not be more striking. Pham operates at the *kernel* level on file systems. Harsham operates at the *application* level to configure networks. Nguyen operates at the *network* level as a service

provider architecture. The disconnect between the Harsham, Nguyen and Pham systems is so significant that the suggested integration of the three references is without merit. The Examiner's suggestion to combine these references under §103 is improper under MPEP §2141.01(a), and constitutes clear error. For this reason, it is respectfully submitted that the Harsham, Nguyen and Pham references are not properly combinable, and that the rejections under §103 must be withdrawn.

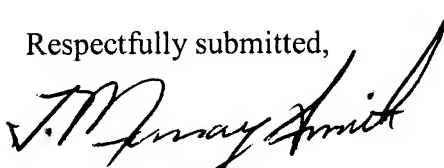## Dependent Claims 2-3, 10-11, 13-14, 18-19, 21 and 23-25

Claims 2-3 and 10-11, Claims 13-14 and 18-19, and Claims 21 and 23-25 respectively depend from Claim 1, Claim 12, and Claim 20, and are also believed to be distinct from the art of record, for example for the same reasons discussed above with respect to Claims 1, 12 and 20, respectively.

Conclusion

Based on the foregoing, it is respectfully submitted that all of the pending claims are fully allowable, and favorable reconsideration of this application is therefore respectfully requested. If the Examiner believes that examination of the present application may be advanced in any way by a telephone conference, the Examiner is invited to telephone the undersigned attorney at 972-739-8647.

Although Applicants believe that no additional fees are due, the Commissioner is hereby authorized to charge any fees required by this paper, or to credit any overpayment, to Deposit Account No. 08-1394 of Haynes and Boone, LLP.

Respectfully submitted,

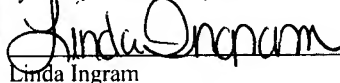T. Murray Smith
Registration No. 30,222
(972) 739-8647

Dated: March 11, 2009

HAYNES AND BOONE, LLP
IP Section, Suite 700
2323 Victory Avenue
Dallas, Texas 75219
Telephone: 972-680-7550
Facsimile: 214-200-0853

R223822.1

Certificate of Service
I hereby certify that this correspondence (including any listed enclosures) is being electronically filed in the United States Patent and Trademark Office via the EFS-Web system on March 11, 2009.

Linda Ingram